



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 1, 2005

The Honorable Edward J. Markey
United States House of Representatives
Washington, D.C. 20515

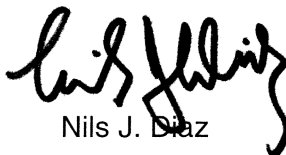
Dear Congressman Markey:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 18, 2005, regarding NRC's rulemaking on controlling the disposition of solid materials, in which you request responses to three specific questions. Detailed responses to your questions are enclosed with this letter.

As you are aware, the NRC staff provided the Commission with a draft proposed rule on March 31, 2005. The draft proposed rule and supporting draft environmental impact statement were made available to the public on April 18, 2005. Information the staff used to prepare the draft proposed rule included: input from stakeholders; review of reports by other organizations; review and comparison with other related health standards; and results of technical analyses and National Environmental Policy Act analyses of alternatives for disposition of solid materials. The Commission has completed its review of the staff's suggested approach for disposition of solid material and decided to defer the rulemaking for the time being. The Commission's decision, as stated in the Staff Requirements Memorandum of June 1, 2005, is based on the fact that the agency is currently faced with several high priority and complex tasks, that the current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning.

I trust the information provided in the enclosure responds to your concerns.

Sincerely,



Nils J. Diaz

Enclosure:
"Discussion of Specific Questions
Raised by Congressman Markey"

Discussion of Specific Questions Raised by Congressman Markey

1. Question: Please provide your expected timeline for this rulemaking to occur, including all the opportunities the public will have to participate in the process.

Response:

The Commission has completed its review of the staff's suggested approach for disposition of solid material and decided to defer the rulemaking for the time being.

2. Question: If the Commission does intend to move forward with this rulemaking, please fully describe how it plans to address the concerns of the public and industries that want to avoid unnecessary additional radiation exposure and risk that would result from its implementation.

Response:

The Commission has completed its review of the staff's suggested approach for disposition of solid material and decided to defer the rulemaking for the time being.

3. Question: Please provide a list itemizing all resources expended by the Commission on developing or supporting policy or rulemaking proposals to release radioactive materials from regulatory control since 1992, including the total amount of funds spent on each item, the amount of staff time devoted to each item, contracts with the NAS or other entities to study or support Commission activities, or other expenses.

Response:

In its efforts on disposition of solid materials, NRC staff has conducted activities in three broad areas: preparation of the proposed rule and regulatory guidance documents; public outreach to discuss alternatives for disposition of solid materials; and technical analyses to support decision-making, including management of contractor efforts. The response to this question lists NRC staff resources and NRC contractor funding in relation to these areas.

A. NRC Staff Resources

1. Staff efforts before October 2002 SRM: Most staff effort, prior to October 2002, was related to outreach efforts to stakeholders, project management of the National Academies study, and development of technical support documents related to preliminary alternatives.

Stakeholder outreach included publication, in June 1999, for public comment, of an issues paper discussing preliminary alternatives. The staff held five public meetings, from September 1999 to January 2000 (in Chicago, Illinois; Atlanta, Georgia; San Francisco, California; and Rockville, Maryland (two meetings)), to discuss the alternatives with a range of stakeholder groups. A summary of stakeholder written and oral comments received can be found in NUREG/CR-6682 (September 2000). In May 2000, the Commission invited a broad range of stakeholder groups to discuss their views directly with the Commission in an open forum.

Enclosure

Efforts related to the National Academies study included: placement of the contract; participation in three public meetings held, from January to June 2001 by the National Academies; and review and analysis of the National Academies final report. The staff reviewed the National Academies report and provided recommendations to the Commission for proceeding on a rulemaking.

Approximate total: 9.6 FTE

2. Staff efforts subsequent to October 2002: In a Staff Requirements Memorandum (SRM) in October 2002, the Commission directed the staff to prepare a proposed rule.

- a) Staff resources during this period have included preparation of a proposed rule and its rationale, and preparation of supporting rulemaking documents, including the DGEIS and regulatory analysis. To satisfy requirements of NEPA for this rulemaking, the staff prepared a DGEIS. Preparation of the DGEIS, including its public scoping process, used significantly more staff resources than preparation of an environmental assessment which is done for nearly all other rulemakings.

The NRC staff also conducted public outreach during this period. This outreach included issuing (in February 2003) discussion papers, in both the FR and on the NRC website, requesting public comment on alternative approaches. To supplement this request for comment, the staff held a public workshop (May 2003). In response, representatives of various stakeholders, including the metals industry, citizens groups, licensee organizations, and Federal and State agencies provided both written and oral comments. Those comments were summarized in NUREG/CR-6682, Supplement 1 (March 2004). In response to requests from specific stakeholders, the staff also held meetings, open to the public, with a licensee representative (September 2003) and with metals industry representatives (February 2005).

Approximate total: 6.8 FTE

- b) Staff resources also included preparation of a draft regulatory guidance document that contains specific information about procedures for implementing the rule. This document, which includes, for example, QA and QC procedures for measurements of releases, is useful for this rulemaking given public concern about accuracy of measurements of material released.

Approximate total: 1.9 FTE

3. Staff efforts related to development of technical analysis as support to the rulemaking (and as input to the DGEIS): These resources cover periods both before and after the October 2002 SRM and include staff analyses efforts and staff effort on contract management. For contract funding, see Item B, below.

Approximate total: 11.7 FTE

B. Contracts Providing Assistance to Rulemaking:

1. General technical basis:

- a) NUREG-1640, "Radiological Assessments for Clearance of Materials from Nuclear Facilities" - analyses of various potential uses of materials (steel, aluminum, copper, concrete, and reused tools and equipment) and resultant potential exposures as a result of different dispositions of solid materials.

NUREG-1640: \$3.8 million

- b) NUREG-1761, "Radiological Surveys for Controlling Release of Solid Materials" - analysis of survey methods for disposition of solid materials.

NUREG-1761: \$0.25 million

- c) NUREG-1725, "Human Interaction with Reused Soil: An Information Search."

NUREG-1725: \$0.12 million

2. General consideration of alternatives for disposition of solid materials:

- a) National Academies Report, "The Disposition Dilemma; Controlling the Release of Solid Materials from Nuclear Regulatory Commission-Licensed Facilities" - reviewed in response to Commission request, alternatives for disposition of solid materials.

National Academies report: \$1.0 million

3. Direct support to rulemaking:

- a) Facilitation support for Fall 1999 public meetings: \$0.14 million
- b) DGEIS, regulatory analysis, and Paperwork Reduction Act analysis: \$0.718 million
- c) Collective dose report amount: \$1.6 million
- d) Survey cost report: contractor amount: \$0.05 million